

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.1067 of 2016**

Baldau Singh Thakur S/o Shri Late Shambhu Singh Thakur, Aged About 58 Years Resident- Near Shri Hari Hospital, Bus Stand Abhanpur, Post And Police Station Abhanpur, Abhanpur, District Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralay, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The District Education Officer, District Raipur, Chhattisgarh.
3. The Chief Executive Officer, District Panchayat Raipur, Chhattisgarh.
4. Block Development Education Officer, Abhanpur, District Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Jitendra Gupta, Advocate
For Respondent/State	:	Shri Bhaskar Payashi, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/07/2016

Heard.

2. The petitioner has assailed correctness and validity of order dated 09-08-2011 (Annexure P-1), by which, the petitioner's claim for grant of regular pay scale from the initial date of appointment, has been rejected.
3. Learned counsel for petitioner submits that in view of the directions issued by this Court on 31-07-2008 in the case of ***Baldau Singh Thakur and another vs. State of Chhattisgarh and others (W.P.(S)No.4167 of 2008***, the petitioner was entitled to similar treatment and the benefit of regular pay scale

from the initial date of appointment. However, the respondents illegally rejected the claim of the petitioner by stating that the benefit of regular pay scale would be given to those teachers only, who have been appointed during the period mentioned in the impugned order. Learned counsel for the petitioner submits that the distinction drawn by the authority is illegal and arbitrary.

Seeking to explain the delay in filing the petition, an affidavit has been filed by the petitioner stating that number of teachers, junior to the petitioner, were granted promotion vide order dated 09-06-2015, as such, cause of action arose for filing this petition.

4. I am afraid the reason assigned for condonation of delay would not be relevant. The petitioner's claim was rejected way back on 09-08-2011. The teachers, to whom, the aforesaid benefit were granted, have been considered for promotion and granted promotion from 09-06-2015. It is not a case that no orders were passed on the claim of the petitioner but it was impliedly rejected on the promotion of the juniors. Claim of the petitioner was decided long back and after almost more than four years, the petitioner has filed this petition.

5. It needs no authority for the proposition that it is not the length of delay but the reasons assigned for delay that would decide whether the discretionary jurisdiction should be exercised by the Writ Court. When the petition is filed after more than four years, there has to be plausible explanation. The reason assigned by the petitioner is hardly relevant. The fate of the petitioner was well known to him upon rejection of his representation vide order dated 09-08-2011. There was no justification for the petitioner to remain indolent, even after rejection of his representation in writing. It is not the case of the petitioner that rejection was not within his notice and knowledge. Promotion of other teachers in year 2015 is based on their individual standing and seniority.

6. In view of above, this petition is liable to be dismissed only on the ground of delay and laches.

7. Accordingly, this petition is dismissed.

SD/-
(Manindra Mohan Shrivastava)
Judge